

**STARTLING
EVIDENCE
REPORTED IN
HANDS
OF FRANK'S
COUNSEL**

Another Important
State Wit-

ness Said to Have
Repudi-

ated Testimony Given
at the
Trial

SILENCE OF
ATTORNEYS

GIVES COLOR TO
REPORT

Other Affidavits
Containing

Sensational
Statements Are

Prepared for Use in Motion for New Trial, it is Said

Attorneys for Leo M. Frank refuse to discuss the report that another witness for the state, equally important, if not more important, to the prosecution's case than Albert McKnight and George Epps, has repudiated his testimony at the trial.

The rumor is persistent that the defense has in its possession several affidavits which have not been made public, but which will be used in the extraordinary motion for a new trial which will be brought before Judge Ben H. Hill, of the criminal division of the superior court, some time before the date set for the execution of Frank.

The report is current that in the unpublished affidavits is sensational testimony as valuable as the recently developed point which tends to show that the murder notes were written in the basement instead of in the office, as Conley contends. The reticence of the attorneys for Frank has naturally given color to the reports.

Attorney Herbert J. Haas, associated with the Frank defense since the factory superintendent was first arrested, has returned from New York, after an absence of about ten days. It is said that while there he conferred with Nina Formby and with William S. Osborne, the handwriting expert, and with other figures in the case.

BURKE SILENT ON TRIP.

C. W. Burke, a special investigator in the employ of the defense, has also returned to the city after a trip to Florida in the interest of the defendant. Burke refuses to state the object or the result of his trip.

To all appearances Frank is greatly encouraged by the recent developments in his case. The defendant is closely following every move in the case, and spends much of his time studying the value and effect of the various new points in the case.

Frank in his tower cell receives many visitors every day, and when callers are not in front of his cell, he is busy studying his case or with his rather voluminous correspondence. Besides representatives from the Atlanta papers, Frank recently has discussed his case freely and at length with representatives of New York and other eastern papers.

With hailing distance of Frank's cell are the quarters of Jim Conley, his negro accuser, who is still waiting the hearing of his motion for a new trial. The date for the hearing has been set for March 15. In the event the motion is denied an appeal to the supreme court will be taken for the negro by his attorney and there is little probability of Conley's commencing service of his twelve months' sentence on the chain-gang for four or five months longer.

JIM CONLEY INTERVIEWED.

Monday evening the negro was interviewed by the first newspaper man admitted to his cell since immediately after his trial. The newspaperman, a representative of New York Times, went to the negro's cell with Conley's attorney, William M. Smith, the interview having been requested for him by Solicitor Dorsey.

Jim recounted his story to the New York man, who is making an exhaustive investigation of the case. During the course of the interview Conley brought the fact that he was short of funds to

the attention of his interviewer. Two crisp dollar bills were handed through the bars to the outstretched fingers of the negro.

"That is more money than Jim has had since he came to the jail nearly a year ago," remarked Attorney Smith.

"It shore is," said the negro.

"Well, Jim, what are you going to do with the money?" asked the interviewer.

"Well, boss," came the smiling reply, "I am going to eat all day tomorrow."

Conley is still said to entertain the idea that he was very badly treated by the courts, when, following his trial, he

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(Continued from Page 1.)

was not given the option of paying a fine.

DORSEY PLANS FIGHT.

Numerous conferences have been held by the solicitor general the past few days with the city detectives who worked up the cast against Leo M. Frank, and the solicitor is already preparing to fight the extraordinary motion for a new trial, which will be filed during the next thirty days by the defense.

Solicitor Dorsey is engaged practically every morning in the trial of the routine cases in the criminal division of the superior court, but his afternoons, it is said, are devoted to the Frank case, and through the detectives he is familiarizing himself with each new development.

Solicitor Dorsey refused to discuss with newspapermen the value of the new evidence which has recently been developed by the Frank defense, but men close to the solicitor say he does not

consider that the aspect of the case has been unchanged in the slightest degree by the new evidence.

A feature of the case is the expected arrival of William J. Burns, who has been employed by Dr. B. Wildauer and Milton Klein, friends of Frank, to make a study of the case in an effort to develop any material evidence, which has been overlooked by the city detectives or by the numerous investigators who have been at work for the defendant.

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Terrazas evidently prefers America's trust busting to Villa's.

This cold weather doesn't give even the fruit-killed rumor a chance.

Frank Should Have

A

New Trial

On April 26, 1913, in the City of Atlanta, in a building situated on one of the most crowded thoroughfares, a young girl just budding into womanhood was cruelly and brutally murdered. The crime was enveloped in deepest and most impenetrable mystery. Circumstances pointed vaguely to several individuals as being possible murderer, but to no one convincingly. The city and indeed the whole country were horrified. The very brutality of the crime aroused public indignation to a degree of frenzy almost inconceivable. The criminal was demanded and the criminal must be found.

An irresponsible drunken negro charged Leo Frank with the crime. He related in minute and nauseating detail the horrible circumstances surrounding the murder. No other victim could be discovered, and in the absence of convince evidence against anybody else, public fury gradually centered on Frank.

As time went on the mystery deepened. There was no satisfying circumstance indicating that Frank committed the crime

and it required the negro's testimony to furnish even a basis for the accusation. The fact that this horrible crime had been committed and no other victim could be discovered was alone sufficient to cause the negro's testimony to be accepted by the public. He would not have been believed under other conditions, but an outraged public demanded a victim, and circumstances seemed in some slight degree to sustain the negro's testimony.

Frank was placed on trial last August. Public indignation was still at white heat. The trial was perhaps the longest and certainly the most sensational that ever occurred in the South. The jury found Frank guilty. A new trial was refused. The presiding judge stated in his refusal that he had been unable to make up his mind as to whether the man was guilty or innocent, but that the determination of that question was in the province of the jury, and the jury had declared him guilty. The Supreme Court was appealed to, and that Court decided that no error had been committed sufficient to justify setting aside the jury's verdict. Frank is under sentence of death. He is to be hanged on April 17th, unless execution of the sentence is delayed.

The Journal cares absolutely nothing for Frank, or for those who were engaged in his defense or prosecution. If Frank is found guilty after a fair trial, he ought to be hanged and his case should be made a horrible example to those who would destroy human life, for generations to come.

We recognize the justice of the rule that precludes the press from discussing, editorially at least, cases while pending in court. We have always respected both the necessity and the propriety of this rule. We do not wish to violate it now, but this case is so extraordinary in every phase and detail, so important in the consequences that may follow and so dangerous to the sanctity of the courts and the safety of the people themselves, that ordinary rules do not apply. Besides, so far as the record shows, this is a finished case. The prisoner has been sentenced to death, and nothing remains but to execute the mandate of the court. We do not therefore violate the proprieties of journalism nor offend

against the peace, good order, and dignity of the State, when in simple justice and with profound respect for the courts and jury, as well as the lawyers on both sides of this remarkable case, we plead for a new trial for this unfortunate man.

The courts have their great responsibilities and their arduous duties to perform, and be it said to their everlasting credit, they discharge those duties to the best of human ability. But even juries are sometimes swayed by environment and the judicial ermine is not infallible. Infallibility, is an attribute of omnipotence and omniscience only. Responsibility for the enforcement of the law and the punishment of crime rests largely but not exclusively upon the courts. The press also has its share of responsibility, and it seems to The Journal that the time has come for the press to speak. The Journal will do so now even though every other newspaper in Georgia remains silent.

It is our duty to help enforce the laws and punish crime, but it is a far more solemn duty to know with reasonable certainty at least, that men accused of crime are guilty before they are punished. Error in the administration of the law must be corrected before its consequences are visited upon those not legally convicted; otherwise, the law itself falls into disrepute and becomes the scorn of those who should uphold it.

In this respect the press is responsible no less than the courts. Its duties are not in conflict but in aid of the courts. It is the *amicus curiae*, the friend of the court, in such matters. It is in this spirit that we appeal for a new trial for Frank. Is Frank guilty of the murder of Mary Phagan? We do not know. He may be guilty or he may be innocent. He may be a fiend incarnate, or he may be the victim of a cruel conspiracy. Whether he is innocent or guilty is not now the question.

Leo Frank has not had a fair trial. He has not been fairly convicted and his death without a fair trial and legal conviction will amount to judicial murder.

We say this with a full understanding of the import of our words and the responsibility that rests upon us in making this appeal. We do so, not in disrespect for the court or the lawyers or the jury. They did the best they could with the lights before them. We honor them for faithfully performing a most unpleasant duty as they saw it.

But this we do say without qualification: it was not within the power of human judges and human lawyers and human jurymen to decide impartially and without fear the guilt or innocence of an accused man under the circumstances that surrounded this trial.

The very atmosphere of the court room was charged with an electric current of indignation which flashed and scintillated before the very eyes of the jury. The courtroom and streets were filled with an angry, determined crowd, ready to seize the defendant if the jury had found him not guilty. Cheers for the prosecuting counsel were irrepressible in the courtroom throughout the trial and on the streets, unseemly demonstrations in condemnation of Frank were heard by the judge and jury. The judge was powerless to prevent these outbursts in the courtroom and the police were unable to control the crowd outside.

So great was the danger that the Fifth Regiment of the National Guard was kept under arms throughout a great part of the night, ready to rush on a moment's warning to the protection of the defendant. The press of the city united in an earnest request to the presiding judge to not permit the verdict of the jury to be received on Saturday as it was thought it would be, because it was known that a verdict of acquittal would cause a riot such as would shock the country and cause Atlanta's streets to run with innocent blood. Under such indescribable conditions as these, Frank was tried and convicted. Was a fair trial, under such circumstances, possible? Could a man be legally and fairly convicted while a threatening and uncontrollable mob was breathing vengeance in the very faces of the judge and jury?

Frank may be guilty. If so he should suffer the extreme penalty of the law by hanging, for surely no more horrible crime was ever committed; but in the name of Justice and in the name of the good people of the State of Georgia, who believe in fair play, who stand for the enforcement of law and the punishment of crime, after legal conviction, let this man be fairly tried. **If he is guilty, he will be convicted again. The majesty of the law cannot, be offended, justice cannot be defeated, the feelings of an outraged community cannot be further outraged, by according to this man a fair and impartial trial.**

The evidence on which he was convicted is not clear. Suppose he is hanged and it should develop that the man was innocent as he claims? The people of this state would stand before the world convicted of murdering an innocent man by refusing to give him an impartial trial. Such a horrible thing is unthinkable. And yet it is possible; yea, an absolute certainty that we are going to do that very thing unless the courts interfere.

Ought Frank to have a new trial? The question carries its own answer:

“Let Justice be done, though the Heavens fall.”